

EXHIBIT B

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PRESIDENT'S OFFICE

April 19, 2021

Honorable Andrew Cuomo
Governor
State of New York
Executive Chamber
Albany, New York 12224
VIA FEDEX

**Re: Secretarial Review of Year 15-21 Payment Provisions of the
Nation-State Compact**

Dear Governor Cuomo,

Attached please find correspondence received by the Seneca Nation on April 15, 2021 from the United States Department of the Interior, Office of the Assistant Secretary-Indian Affairs. At the request of the Seneca Nation, the Department of Interior has reviewed the Arbitration Panel's decision in *State of New York v. Seneca Nation of Indians*, AAA Case No. 01-17-0005-3636, and the question whether the renewal-period revenue sharing payments ordained by that decision have received the requisite approval of the Department. In its April 15 letter, the Department states clearly that: (1) it has never reviewed renewal-period revenue sharing payments to determine whether they are consistent with the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., (2) that absent such review, it cannot "provide any certainty that the extension of revenue sharing into the seven-year renewal period complies with the requirements of IGRA," and "[w]e caution the parties about their reliance on the terms because we have not determined that they are lawful," and (3) that "[i]f the parties would like the Department to determine whether the [renewal period] revenue sharing provisions are lawful, we invite the parties to submit them for review by the Secretary."

In light of these determinations by the Department, it is imperative that the Nation and the State submit the renewal period revenue-sharing terms to the Secretary of Interior for review. The

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Department seeks to assess whether renewal period payments at a rate of 25% of net win are justified by “meaningful concessions” and “substantial economic benefits” to the Nation. Absent such review, we lack an answer to the question whether the Nation may lawfully make such payments, and whether the State may lawfully receive them.

Submission of the revenue-sharing terms imposed by the Arbitration Panel to the Department for its review, in conjunction with any economic and other analysis that the State and the Nation desire to provide the Department, will resolve this legal uncertainty with finality. And, because Secretarial review is undertaken within a limited 45-day period under IGRA, it will do so expeditiously.

Further, the Department’s assessment of these issues will not only pertain to the appropriateness under IGRA of renewal period payments at a rate of 25% of net win, but will also provide the Nation and the State with valuable guidance as we enter negotiations for a continued mutually beneficial relationship after the current Compact expires in 2023.

For these reasons, the Nation respectfully urges that it is in the interests of both parties to submit the matter to the Department forthwith. We ask that the State provide us with at least a preliminary indication of its views by the close of business on Wednesday, April 21, 2021. We are of course happy to discuss the issues in the meantime.

Sincerely,

A handwritten signature in black ink, appearing to read 'MPagels', is written over a faint horizontal line.

Matthew B. Pagels
Seneca Nation President

Enclosures.

Cc: Robert Williams, NYSGC Executive Director
Beth Garvey, Counsel to the Governor